

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SUMMA RESOURCE HOLDINGS
LLC,

Plaintiff,

v.

CARBON ENERGY LIMITED,

Defendant.

Case No. 15-cv-05334-TEH

**ORDER REGARDING
SUPPLEMENTAL BRIEFING;
CONTINUING HEARING**

On December 18, 2015, Defendant Carbon Energy Limited (“Carbon”) filed Motions to Dismiss and Strike. Docket No. 16. Plaintiff Summa Resource Holdings, LLC (“Summa”) timely opposed the motions. Docket No. 17. The matter is currently set for oral argument on February 22, 2016.

Throughout its motions, Carbon repeatedly argues that Queensland law governs the share sale agreement (“Agreement”) entered into by the parties, and therefore applies to all claims arising from the Agreement. Docket No. 16 at 4, 8, 11, 13, 14-16, 21. In opposition, Summa requests that if the Court finds a choice of law determination to be necessary at this stage of the proceedings, the Court order the parties to submit supplemental briefs on the issue. Docket No. 17 at 9 n.7.

Having considered the parties’ written arguments, the Court now finds that a choice of law determination may be necessary to rule on one or more aspects of Carbon’s motions. Accordingly, IT IS HEREBY ORDERED that:

1. Each party shall file a supplemental brief of no more than fifteen pages by March 1, 2016. The brief shall address: (1) the scope of the Agreement’s choice of law provision, including whether the provision reaches tort claims; (2) whether Queensland and California law direct different outcomes on Carbon’s motion to dismiss each of Summa’s eight claims; and (3) if the Court should find that Queensland law governs any claim, why the Court

1 should not decline to exercise its jurisdiction over this matter under the
2 doctrine of forum non conveniens.

3 2. Each party may file an opposition brief of no more than fifteen pages by
4 March 15, 2016. Reply briefing is not permitted and will not be considered
5 by the Court.

6 3. The motion hearing previously set for February 22, 2016 is continued to
7 **March 28, 2016** at 10:00 AM in Courtroom 2, 17th Floor, San Francisco.
8 On that date, the parties shall come prepared to argue both the issues raised
9 in Carbon's motions and the issues raised in the supplemental choice of law
10 briefing.

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12 **IT IS SO ORDERED.**

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14 Dated: 02/16/16



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THELTON E. HENDERSON
United States District Judge